

**TESTIMONY
SENATOR DON NICKLES
COMMITTEE ON THE BUDGET
U.S. HOUSE OF REPRESENTATIVES
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Introduction

Chairman Nussle, Ranking Member Spratt, and distinguished members of the House Budget Committee. Thank you for inviting me to join you today to discuss proposals to improve the federal budget process.

In 1980 I was elected to the seat held by Senator Henry Bellmon upon his retirement. Senator Bellmon was a leader in creating the modern federal budget process and the budget committees, and I was proud to serve many years on the Senate Budget Committee. I am particularly proud of my final two years in the Senate when I had the privilege to chair the committee, where I enjoyed working with you, Chairman Nussle, and your staff on two budget resolutions.

We dealt with some very difficult issues those two years; some successfully and some not. However our efforts in 2003 resulted in a budget and a tax bill which I believe contributed substantially to the growth and vitality our economy is enjoying today. That budget resolution, and the tax reconciliation bill which accelerated tax relief and reduced capital gains and dividend taxes, passed the Senate only by the affirmative vote of the Vice President breaking the tie. That was indeed a close one, but well worth the effort.

Passing a budget is hard work, and it should be since it defines the priorities of the Congress. However it is also one of the most fundamental responsibilities of the Congress to pass a budget and to live by it.

Tough budget enforcement is very important. When I chaired the Senate Budget Committee in the 108th Congress, there were 82 points of order raised to enforce the budget. I am pleased to say that only 4 of those points of order were waived, a 95 percent success rate. All together, those points of order saved \$1.7 trillion in deficit spending.

Even in 2004 when the House and Senate did not agree on a budget resolution, we did successfully impose a spending cap/allocation on the appropriations bills for that year in the defense bill passed just before the August recess. When the Senate considered the Homeland Security appropriations bill the week following the recess, 10 different amendments which would have increased spending by billions of dollars were defeated thanks to that spending allocation. Budgets do make a difference.

It is important to note that in the evolution of the budget process, almost every major rewrite has been bipartisan in nature. From Gramm-Rudman-Hollings which created the concepts of deficit targets and sequesters, to the Andrews Air Force budget agreement in

1990 which created discretionary spending caps and pay-as-you-go; these efforts were notable for their bipartisanship. Since 1990, Congress has extended some budget enforcement, allowed some to expire, and tinkered around the edges, but the main elements of the process have been essentially unchanged. Real, lasting reform of the budget process will require both parties to work together.

I will comment briefly on some of the budget process proposals currently under consideration. However I want to begin by emphasizing that the budget process can never be a substitute for political will. This committee has been hearing testimony for years about the fiscal crisis presented by the retiring baby-boom generation. That crisis is no longer on the horizon...it is here now...and there is no budget process you can devise to replace the difficult political effort that will be required to address this problem.

Budget Resolution Reforms

The annual budget resolution and the process to enact it could be improved in a number of both technical and significant ways.

Many have suggested biennial budgeting, which my former colleague Senator Pete Domenici has long advocated. Members may not recognize it, but Congress has actually lived with biennial budgeting since 2001. Both the 107th and 108th Congresses enacted budget resolutions for the first year of the session (2001 and 2003), and then failed to agree on a budget resolution for the second year of the session (2002 and 2004). I hope for the sake of Chairman Nussle and Chairman Gregg that the 109th Congress will not suffer the same fate, but perhaps history is trying to tell us something.

Others have suggested making the budget a joint resolution that would be signed by the President. While I have some concern that this would further slow the budget process, and increase the likelihood of stalemate, I do believe that having the legislative and executive branches on the same page earlier in the year could be valuable.

Finally, I would recommend that members consider other more technical changes to make the budget resolution, and the budget committees, more effective and more relevant.

- **Involve Committees in the Budget Process:** Currently, authorizing and appropriations committees are directed to submit their “views and estimates” to the budget committees prior to consideration of the budget resolution. Unfortunately, few committees take this process seriously. I believe putting the committees on record early in the process would improve budget enforcement, so I would recommend that committees be required to vote to report their “views and estimates”, and those views should include specific recommendations for increases or decreases in their committee allocation.
- **Revise Contents of the Budget Resolution:** Currently, committee allocations are the focus of budget enforcement, but almost no members (and few staff outside of the budget committees) ever see the committee allocations because

they are only published in the conference report's statement of managers. The budget resolution amendment process and debate would be much more relevant and serious if members had to take money away from one committee's allocation to give it to another committee. The major functional budget categories currently detailed in the budget resolution text could be replaced with specific committee allocations for budget authority, outlays, contract authority, and revenues.

Line Item Veto / Expedited Rescission

I have long been a supporter of both the Constitutional line item veto and the various iterations of enhanced or expedited rescission authority. I am pleased that President Bush has initiated a renewed push to enact expedited rescission authority, and I encourage this committee to give it favorable consideration.

Although called the "Legislative Line Item Veto Act", the President's proposal is basically just an expedited variation of the current rescission process. Essentially, the President will be allowed to send certain items of discretionary spending, mandatory spending, or targeted tax benefits back to Congress for a second vote. These proposed rescissions will receive privileged consideration in both the House and the Senate, but ultimately Congress retains the final decision, which should allow this authority to pass Constitutional muster.

I should note, however, that although these proposals hold some promise to reduce overall spending, members should not expect any President to balance the budget with this new authority.

Earmark Reform

Earmark reform is an easy issue to advocate generally, but much more difficult to implement specifically. I served several years on the Senate Appropriations Committee, including as ranking member on the Interior Appropriations Subcommittee which receives a host of earmark requests. I encourage you to legislate carefully in this area, and consider the following issues.

- **Disclosure:** I rarely ever saw a successful earmark that wasn't accompanied by a press release from its advocate, so some would say disclosure already exists. However, a more formal disclosure process could be healthy, and may help eliminate projects which truly can't stand the light of day.
- **Report Language:** Some proposals have suggested that federal agencies disregard earmarks in report language or require all projects be included in bill language. I am not sure this would change the dynamics of earmarks much, but it would certainly make appropriations bills much larger and more complex.
- **Power of the Purse:** The legislative branch should always consider very carefully any significant limitations on their ability to manage and control executive activities. What may seem to make sense now could have implications to the balance of power that may not even have been contemplated.

Budgeting for Emergencies

Congress is frequently required to respond to emergencies ranging from disaster recovery to military confrontation. Unfortunately, we have failed to develop an adequate way to budget for and control this spending. When the discretionary spending caps were created in 1990, the concept of the “emergency designation” was created to give Congress a safety-valve to exceed the spending caps.

Unfortunately, the emergency designation became a simple way for Congress to avoid the caps for spending which was not really an emergency. I am proud to have worked with my former colleague Senator Phil Gramm to create a supermajority hurdle for the use of the emergency designation in the Senate which is still effective today.

The President has proposed refining the definition of an emergency to limit it to a necessary expenditure that is sudden, urgent, unforeseen, and not permanent. While I agree a tighter definition would be helpful, I am disappointed that the President has continued to request all funding for the War on Terror as an emergency. Congress has spent some \$323 billion in this manner since 2001, and while I certainly hope this spending is “not permanent”, I cannot agree that it is sudden or unforeseen.

Senate Budget Chairman Judd Gregg has attempted in his latest budget resolution to limit emergency spending for fiscal year 2007 to \$90 billion. While I congratulate this attempt to limit the global scope of emergency spending, I am somewhat concerned that budgeting a specific amount for emergencies will almost guarantee that it will be spent regardless of need.

Sunset Commission

The President and many members of Congress have proposed various proposals to require periodic reviews and reauthorization of federal programs. The President’s proposal would create a seven-member, bipartisan Sunset Commission that would assess the performance of agencies and programs on a 10-year schedule and recommend reforms or termination.

I have long been frustrated by Congress continued fascination with creating more and more new programs, and believe a Sunset Commission could help Congress with its oversight responsibilities.

Pay-As-You-Go

Finally, I would like to mention a budget process issue which seems to dominate much of the debate...pay-as-you-go.

The ongoing effort to re-impose a pay-as-you-go enforcement regime is hailed by many budget pundits as a return to the budget discipline of the past. The truth is that the old pay-as-you-go rules were never an effective deficit deterrent, and many of their current proponents simply have an anti-tax-cut agenda unrelated to deficit reduction.

From 1990 to 2002, not a single sequester enforcement action was ever invoked under pay-as-you-go to “pay” for the spending and tax cuts Congress added to the deficit. In fact, over \$736 billion was wiped-off the pay-go scorecard at the end of each year to prevent such enforcement from taking place.

Few realize that pay-as-you-go is largely duplicative of the Budget Act’s variety of enforcement tools. Of the 82 points of order raised in the Senate in the 108th Congress, only 3 were pay-as-you-go. The large majority of the points were either related to committee allocations, the discretionary spending caps, or emergency spending designations.

The real goal of many pay-as-you-go supporters is to stop the extension of current-law tax relief that expires in 2010. Since the siren-song of higher spending has always been more irresistible than the allure of tax cuts, they know that they can easily clear the procedural hurdle to expand government spending while retaining immense leverage over the content and duration of future tax relief.

Conclusion

Again, thank you Mr. Chairman and the committee for the opportunity to discuss these issues.